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Policy No: COH-FRAUD		
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FRAUD AND WASTE POLICY AND PROTOCOL

POLICY STATEMENT

This Policy and Protocol addresses specific guidelines and responsibilities regarding appropriate actions for detecting, reporting and investigating fraud, waste, dishonesty or other similar irregularities.

The City of Hamilton is committed to protecting its revenue, property, information and other assets from any attempt, by any party, to gain improper financial or other benefits by deceit or wrongdoing. It is also committed to protecting the City against wasteful and ineffective practices, recognizing all employees have a role to play in exercising stewardship over public assets.

The City of Hamilton will identify and promptly investigate any possibility of fraudulent or related dishonest activities against the City of Hamilton and, when appropriate, pursue legal remedies available under the law.

The City of Hamilton will take appropriate disciplinary and legal actions against employees and/or entities including the possibility of termination of employment or contract, restitution, and forwarding information to the appropriate authorities for criminal prosecution, as appropriate.

This Policy and Protocol will attempt to clarify acts that are considered to be fraudulent, dishonest, or wasteful conduct, and describe the steps to be taken when fraud, waste or other related irregularities are suspected or have occurred, including those that may violate the City's Code of Conduct ("fraud and waste").

The Office of the Auditor General (OAG) is available and receptive to receiving relevant information on a confidential basis to the extent allowed by law. Individuals have the right to contact the OAG directly and discreetly, whenever waste, a dishonest, or fraudulent activity is suspected. This includes making a complaint via the City of Hamilton's Fraud and Waste Hotline.

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PURPOSE	<p>The purpose of the Fraud and Waste Policy and Protocol is to set out the terms, principles and processes that guide employee conduct and management action.</p> <p>The Policy also explains the options for employees to report instances of fraud and waste.</p>
APPLICABILITY	<p>This Policy and Protocol applies to Council members, all employees of the City of Hamilton, of local boards, agencies and commissions over which Council has authority to require general procedures to be followed, including but not limited to permanent, temporary and contract employees, volunteers, students and interns (collectively called “Employees”).</p> <p>The following are examples (and not an exhaustive list) of fraudulent or dishonest acts that are intended to be within the application of this policy and protocol:</p> <ul style="list-style-type: none"> • Misapplication, misappropriation, or misuse of City assets. • Impropriety with respect to the reporting of financial or other information. • Forgery or alteration of documents. • Acceptance of gifts or favours from existing or potential suppliers, vendors or funding recipients. • Wrongful destruction or disappearance of records or assets. • Undisclosed/inappropriate conflicts of interest. • Dishonesty in the conduct of City business. • Wrongful tampering or interference with City systems, programs, or devices. • Inappropriate disclosure of information or intentionally gaining unauthorized access to information. • Personal benefits being obtained from proprietary knowledge, information, technology or from influence. • Breaches of trust.

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	<ul style="list-style-type: none"> False claims for expense reimbursement or hours worked/time reporting. False claims for employer provided extended health and dental benefits. Related violations of Code of Conduct, Federal, or Provincial Law. Any other similarly fraudulent or dishonest act or irregularity. <p>The following are not within the application of this policy and protocol:</p> <ul style="list-style-type: none"> Harassment Discrimination Lack of employee performance Contravention of the Occupational Health and Safety Act Break-ins Vandalism
DEFINITIONS Fraud	<p>The following terms referenced in this Policy are defined as:</p> <p>For the purposes of this Policy and Protocol, fraud encompasses any array of irregularities and illegal acts characterized by intentional deception to wrongfully obtain unauthorized benefits. Dishonest or fraudulent activities include, but are not limited to, the following:</p> <ul style="list-style-type: none"> Forgery or wrongful alteration of documents. Misrepresentation of information. Misappropriation or diversion of funds or other assets. Falsified claims for benefits or reimbursement. Breach of trust with respect to duties.
Waste (Mismanagement)	<p>Waste involves taxpayers not receiving reasonable value for money in connection with any government funded activities, due to mismanagement or an inappropriate or careless act or omission by those with control over or access to government resources.</p>

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	<p>Importantly, waste goes beyond fraud and doesn't necessarily involve a violation of law. Waste relates primarily to poor management, imprudent expenditure, inadequate oversight or abuse of policy and includes incurring unnecessary costs or risks due to ineffective practices, systems or controls. Some examples of waste may include:</p> <ul style="list-style-type: none"> • Neglect of legal, legislative, administrative or contract requirements. • Inefficient or poorly executed procedures. • Inadequate administrative or cost controls. • Ineffective policies, processes, resource deployment, or management oversight. • Acceptance of poor quality goods or services. • Poorly managed threats that could pose a danger to public safety or compromise the security of the City's technologies, systems or processes.
Vexatious	Without reasonable or probable cause or excuse; harassing; annoying, dishonestly presented; instituted maliciously or on the basis of improper motives; intended to harass or annoy.
Frivolous	Characterized by a lack of seriousness or sense; of little or no weight, worth or importance, not worthy of serious notice; not reasonably purposeful.
Respondent	A respondent is the person(s) that allegations have been made against in a fraud and/or waste report.
Witness	A witness is a person who is a source of information for a preliminary assessment and/or investigation.
TERMS & CONDITIONS	<ol style="list-style-type: none"> 1. Employees of the City of Hamilton are trusted to act with honesty and integrity. Employees must not engage in fraudulent, illegal, dishonest, or wasteful activities. 2. Employees of the City of Hamilton have an obligation to report if they have reasonable grounds to believe that instances of fraudulent, illegal, dishonest, or wasteful activities are occurring or have previously occurred.

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	<ol style="list-style-type: none"> 3. Employees are expected not to make frivolous and/or vexatious reports of fraudulent, illegal, dishonest, or wasteful activities. 4. Employees have an obligation to cooperate with the OAG in all preliminary assessments, and investigations, as required per Schedule F of the Code of Conduct for Employees. 5. Employees have an obligation to report if they have reasonable grounds to believe that an employee has concealed, withheld, and/or misrepresented facts or information to Council. 6. All participants in a fraud and/or waste preliminary assessment and/or investigation will keep the details and results of the investigation confidential. However, the Auditor General, in consultation with Legal Services and Risk Management and the Hamilton Police Service (if appropriate), may disclose particulars of the investigation with potential witnesses/personnel if such disclosure would further the investigation.
PRELIMINARY ASSESSMENT AND INVESTIGATION	<p>With all complaints (reports), the OAG will carry out a preliminary assessment. Preliminary assessments and investigations require the full co-operation of the departmental personnel (employees and management).</p> <p>After this preliminary assessment of a report and its allegation(s) is completed, a determination of whether the suspected fraud and/or waste warrants additional investigation will be made by the OAG. The OAG will make the final determination of whether or not an investigation is required. There are four possible report outcomes:</p> <ol style="list-style-type: none"> 1. Investigation Launched by the OAG. 2. Referral with Response Required. The OAG requests that Management or Human Resources undertake an investigation and report back to the OAG. 3. Referral – No Response Required. The OAG may also refer the report to an outside agency if the report does not pertain to City operations or to City management if the report does not pertain to fraud and/or waste.

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	<p>4. No Response Required/Out of Jurisdiction/Not Enough Information.</p> <p>The OAG may also close reports that do not require a response by the OAG because the report does not contain sufficient information or the report is out of jurisdiction.</p> <p>There can be circumstances in which the Auditor General or another party has suspicions that a complaint is vexatious. In situations where there are reasonable and probable grounds to suspect a vexatious allegation, the investigation of the original complaint will usually be suspended until the matter is resolved.</p> <p>The OAG will make the final determination of whether or not a complaint is found to be partially or fully frivolous and/or vexatious. This information may impact OAG's disposition of the complaint and/or investigation.</p> <p>If required, the following actions may be undertaken by the OAG during investigations:</p> <ul style="list-style-type: none"> • OAG will perform work in-house whenever possible. If there are capacity constraints or a need for specialty expertise, the OAG will engage external experts as required. Investigators hired by the Auditor General do so under the same authorities and obligations, whilst acting on instructions from the OAG. • Where a complaint proceeds beyond the preliminary assessment phase, to an investigation by the OAG, due process requires that the investigator attempt to interview and/or obtain statement(s) from the respondent. • Investigation reports, and the particulars therein, are considered to be confidential advice to management. • Respondents are advised of the results of an investigation through a summary report of its findings and conclusions. • The OAG will typically discuss as part of the investigation report, findings and recommendations for improvement and/or prevention of future similar occurrences with management and appropriate administrators. • The OAG does not have any role in advising on matters of discipline. Accordingly, OAG will defer to management, and
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	<p>the advice of the Executive Director of Human Resources (or their designated representative), if a case involves the culpability of any staff members, regarding any determination on disciplinary actions that should be undertaken.</p> <ul style="list-style-type: none"> • The OAG will notify the Executive Director of Human Resources and the City Manager of investigation results. • The OAG will notify the Audit, Finance and Administration Committee, as required per the Auditor General Reporting of Serious Matters to Council Policy. • If illegal activity appears to have occurred, the Auditor General, in consultation with Legal Services and Risk Management as needed, will report the particulars, including any findings, to the Hamilton Police Service. • OAG will contact Risk Management and advise them of the matter so they can work with management to co-ordinate the notification of insurers and the filing of insurance claims. • The Auditor General will report to the external auditors of the City all information relating to investigations of actual frauds. For greater transparency to the public, an annual Fraud and Waste report will be issued to share information about investigation results occurring during the year. <p>It should be noted that there is a high degree of variability in fraud and waste reports, and the above steps may not all be applicable to a given report. The Auditor General reserves the right to adapt the approach taken for managing and escalating any individual case, based on professional judgement.</p> <p>Completion timelines for preliminary assessments and investigations vary depending on the nature and complexity of a report, and management response time.</p>
ACCOUNTING FOR LOSS, RESTITUTION AND RECOVERY	<p>The department incurring the loss from a dishonest or fraudulent act will normally suffer the loss until the monies can be recovered through insurance, recovery or restitution. Finance will set up a receivable for the amount owed to the City. At fiscal year end, the department account will be credited with any amounts collected.</p>

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	<p>The OAG, working in concert with Legal Services, will do whatever possible to ensure lost funds are traced and made recoverable, through the investigation process. However, direction on recovery efforts through legal means should come from the accountable program area department, in coordination with the General Manager of Corporate Services as appropriate.</p>
COST OF PRELIMINARY ASSESSMENT, INVESTIGATION, AND RECOVERING FUNDS	<p>If the incident is an insured loss, then the investigation costs may be covered under the City's self insurance.</p> <p>Otherwise, there is no special fund to cover the costs of recovery and expenses such as hiring special investigators will be allocated by the OAG to departments. Costs are to be allocated by departments from existing operating budgets.</p>
RESPONSIBILITIES	<p>The following positions and/or departments are responsible for fulfilling the responsibilities detailed in this Policy and Protocol as follows:</p> <p><u>Office of the Auditor General Responsibility</u></p> <ul style="list-style-type: none"> • The OAG is responsible for completing preliminary assessments for all received reports that pertain to fraud and waste. • The OAG is responsible for completing fraud and waste investigations as it determines to be necessary and for reviewing the investigation findings for investigations that have been referred to Human Resources and/or Management. • The OAG has full and unrestricted access to all necessary City records and personnel. Upon completion of the investigation, including all legal and personnel actions, any records, documents and other evidentiary material will be returned by the Auditor General to the appropriate department(s). • For investigations undertaken by the OAG, a confidential investigation report to management and/or findings memo will be prepared and provided to senior leadership and/or Human Resources as appropriate. • A summary of the investigation's findings will be provided to the respondents in the investigation. For confidentiality

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reasons, respondents are not entitled to receive a copy of the OAG's confidential investigation report to management and/or findings memo, including advice regarding systemic improvements needed and lessons learned from the investigation incident.

Management Responsibility

Each General Manager/Executive Director is responsible for instituting, documenting, and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriations, waste and other irregularities.

Management should be familiar with the types of improprieties that might occur in their area and be alert to any indication that improper activity, waste, misappropriation, or dishonest activity is or was in existence in his or her operational area.

Upon notification from an employee of suspected fraud or waste or if management has reason to suspect that a fraud or waste has occurred, they will contact their immediate supervisor and the department head. The department head will contact the Auditor General at the earliest convenience and Human Resources (if the situation involves staff members). The department head will also immediately contact the Hamilton Police Service if he/she feels the situation warrants such action (for example, obvious theft has taken place, security is at risk, or immediate recovery is possible).

After informing the Auditor General of the matter, management will not attempt to conduct individual investigations, interviews, or interrogations.

Management will support and co-operate with the OAG, other involved departments, and law enforcement agencies in the detection, reporting and investigation of criminal acts, including prosecution of offenders.

Responsibilities of the manager in handling dishonest or fraudulent activities include the following:

- Do not contact the suspected individual to determine facts or demand restitution.

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- Do not discuss the case, facts, suspicions, or allegations with anyone outside the City, unless specifically directed to do so by Legal Services and Risk Management or OAG.
- Do not discuss the case with anyone inside the City other than employees who have a need to know, such as the Auditor General, Legal Services and Risk Management and/or Human Resources.
- Direct all inquiries from the suspected individual/company or their/its representative/attorney to Legal Services and Risk Management.
- Direct all inquiries from the media to City Manager's Office. A proper response to such an inquiry might be, "I'm not at liberty to discuss this matter. Let me refer you to the City Manager". The City Manager, in consultation with Communications, will determine the appropriate media messages and identify an appropriate City spokesperson, as required.
- Management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions.
- Management is responsible for taking appropriate corrective and disciplinary action after consulting with Human Resources.
- For employee misconduct not covered by this Policy and Protocol, Human Resources and Management are responsible for the provision of investigative services.

Employee Responsibilities

When suspected fraudulent or waste incidents or practices are observed by or made known to an employee, the following will be done:

- The incident or practice must be reported to their supervisor for reporting to the proper management official. When the employee believes the supervisor may be involved in the inappropriate activity, the employee will make the report

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directly to a higher level of management and/or the Auditor General.

- If the employee is not comfortable reporting the matter to their supervisor, they can contact the OAG directly at auditorgeneral@hamilton.ca, or use the Fraud and Waste Hotline at www.hamilton.ca/fraud. The applicability of the Whistleblower By-law will be assessed by the OAG.
- The reporting employee will refrain from the further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone other than their supervisor, the General Manager/Executive Director, the Auditor General, Risk Management and/or law enforcement personnel.

Human Resources

- It is the responsibility of Human Resources to provide advice and assistance to management with respect to employment status pending the outcome of an investigation and on any discipline related to its findings.
- Human Resources is responsible for representing the City at tribunals, boards and commissions for the purpose of resolving grievances and for assisting management in the defense and settling of claims.
- For employee misconduct not covered by this Policy and Protocol, Human Resources and Management is responsible for the provision of investigative services.
- Human Resources will determine if any employees need to be placed on a leave of absence during a preliminary assessment or investigation, after consulting with Management.

Legal Services

- It is the responsibility of Legal Services to provide legal advice to management in matters pertaining to an investigation.
- Legal Services will, on an as-needed basis, meet with parties affected by the alleged fraud, waste, or misconduct,

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	<p>and will assist management in arranging for the defense of any claims against the City, and for the settling of them.</p> <ul style="list-style-type: none"> Legal Services will provide advice to the OAG as requested by the Auditor General, however the OAG will retain its own independent legal advice as determined necessary by the Auditor General. <p>Council</p> <p>When suspected fraudulent or waste incidents or practices are observed by or made known to a Council member, the following should be done:</p> <ul style="list-style-type: none"> The incident or practice should be reported to the Auditor General. Council Members can contact the OAG directly at auditorgeneral@hamilton.ca, or use the Fraud and Waste Hotline at www.hamilton.ca/fraud. The applicability of the Whistleblower By-law will be assessed by the OAG. The Council Member should maintain confidentiality of the incident.
COMPLIANCE	<p>Employees are expected to be aware of and act in compliance with the Fraud and Waste Policy and Protocol.</p> <p>Where there is serious wrongdoing as defined in the Whistleblower By-law that By-law applies.</p> <p>Failure to comply with this Policy and related Schedules may result in appropriate disciplinary measures, up to and including termination of employment.</p>
RELATED DOCUMENTS	<ul style="list-style-type: none"> Auditor General Reporting of Serious Matters to Council Policy Whistleblower By-law Auditor General By-law <p>This Policy and Protocol is designed to augment any other corporate policies containing related information. It does not replace or preclude them. To the extent that this Policy and Protocol may conflict with any other corporate policies containing</p>

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	related information, this Policy and Protocol will take precedence to the extent only of such conflict.
HISTORY	<p>This policy was initially approved by the Audit Sub-Committee on April 10, 2003, as the Fraud Policy and Protocol.</p> <p>Administrative revisions of the Fraud Policy and Protocol were approved by the Auditor General on June 20, 2019, in consultation with Human Resources.</p> <p>The policy was renamed the Fraud and Waste Policy and Protocol by Council in MM/YY.</p>